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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

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GABRIEL D. PAYNE,

Plaintiff,

*versus*

REGINALD GOINGS, *et al.*,

Defendants.

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CIVIL ACTION NO. 1:09-CV-642

**MEMORANDUM ORDER ADOPTING THE MAGISTRATE  
JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff Gabriel D. Payne, a prisoner confined at the Larry Gist State Jail, proceeding *pro se*, brought this civil rights action pursuant to 42 U.S.C. § 1983 against Reginald Goings, Brian Rodeen, and Brad Livingston.

The court ordered that this matter be referred to the Honorable Earl S. Hines, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge recommends dismissing the case without prejudice for failure to state a claim upon which relief may be granted.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the record, pleadings and all available evidence. No objections to the Report and Recommendation of United States Magistrate Judge were filed by the parties.

O R D E R

Accordingly, the findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendation.

SIGNED at Beaumont, Texas, this 25th day of August, 2009.



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MARCIA A. CRONE  
UNITED STATES DISTRICT JUDGE